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December 22, 2009

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

# 13 DECEMBER 22, 2009

Agenda No. 6  
09/22/09

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

**RE: PROJECT NUMBER R2006-00384-(5)  
CONDITIONAL USE PERMIT NUMBER 2006-00029-(5)  
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit to authorize the sale of refrigerated and non-refrigerated beer and wine for off-site consumption at the existing Carniceria El Novillo Market located at 8714 East Avenue T, in the Littlerock Zoned District. At the completion of the hearing you indicated an intent to approve the permit and instructed us to prepare findings and conditions for approval. Enclosed are findings and conditions for your consideration.

Very truly yours,

ROBERT E. KALUNIAN  
Acting County Counsel

By *Elaine M. Lemke*

ELAINE M. LEMKE  
Principal Deputy County Counsel  
Property Division

APPROVED AND RELEASED:

*John F. Krattli*  
JOHN F. KRATTLI  
Senior Assistant County Counsel

EML:vn  
Enclosures

**FINDINGS OF THE BOARD OF SUPERVISORS  
AND ORDER  
PROJECT NO. R2006-00384-(5)  
CONDITIONAL USE PERMIT NO. 2006-00029-(5)**

1. Applicant Javier Araiza requests Conditional Use Permit No. 2006-00029-(5) ("CUP") to authorize the sale of refrigerated and non-refrigerated beer and wine for off-site consumption at the existing Carniceria El Novillo Market ("Market"). Previously, in 2002, Conditional Use Permit No. 99-132-(5) ("Prior CUP") was approved by the Los Angeles County ("County") Board of Supervisors ("Board"), authorizing the sale, on the same premises, of only non-refrigerated beer and wine for off-site consumption. That grant is to expire on August 23, 2010.
2. This CUP supersedes the Prior CUP in its entirety and shall expire 10 years after the date of approval by the Board.
3. The Board conducted a duly-noticed public hearing on the CUP on September 22, 2009.
4. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing regarding the requested CUP on November 5, 2008, and subsequently approved it. That approval, however, was appealed to the Board. Prior to the Commission hearing, the CUP request was considered and approved by a Los Angeles County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer"), whose decision was appealed to the Commission.
5. The Market occupies a tenant space in a shopping center ("Subject Property") located at 8714 East Avenue T, in the Littlerock Zoned District of Los Angeles County. The Subject Property is located within the area of the Antelope Valley Area Plan ("Plan"), a component of the Los Angeles County General Plan.
6. The Plan designates the Subject Property for commercial use, which is defined to include retail commercial, service, and office uses. The Market's proposed use, including sale of beer and wine for off-site consumption, is consistent with the commercial designation in the Plan.
7. The Subject Property is zoned C-3 (Unlimited Commercial).
8. Section 22.28.210 of the County Code ("County Code") permits premises in Zone C-3 to be used for the sale of alcoholic beverages for on-site or off-site consumption, provided a CUP has first been obtained and the premises conform to the conditions of said permit.
9. The Market occupies 4,000 square feet in the Subject Property, which contains a single-story, L-shaped building with a total floor area of 24,475 square feet, situated on a level, paved, and rectangular parcel. A total of 96 parking spaces are located within the overall Subject Property.

10. The Market complies with the parking requirements of the County Code. Section 22.52.1110 of the County Code, which applies to some of the businesses at the Subject Property, states that "every structure used for amusement, assembly, drinking, eating, or entertainment shall provide one or more automobile parking spaces, for each three persons based on the occupant load as determined by the County engineer." Section 22.52.1100, which applies to the Market, requires that a use permitted in Zone C-3, other than a business and professional offices, "shall provide an area of sufficient size so that it contains one automobile parking space plus adequate access thereto for each 250 square feet of floor area of any building or structure so used."

Based on the foregoing, the required parking was determined as follows: the Market has a total floor area of 4,000 square feet, thus requiring 16 parking spaces. Also located on the Subject Property is one restaurant, Big Al's Pizza & Mexican Food, which has a certified occupancy load of 42 persons, and one bar, J.J.'s Tavern, which has a certified occupancy load of 30 persons, thereby requiring a total of 24 parking spaces. A 3,295-square-foot self-storage facility is also located within the center requiring three parking spaces pursuant to the County Code. Other on-site businesses are retail in nature and have a total area of 12,880 square feet, thus requiring 52 parking spaces. Consequently, current uses within the shopping center require a total of 95 parking spaces, one less than the 96 provided at the Subject Property.

11. Surrounding properties within a 500-foot radius of the Subject Property are zoned as follows: C-3 to the north and west, and A1-10,000 (Light Agricultural-10,000-square-foot minimum lot size) to the south and east.
12. Land uses within 500 feet of the Subject Property consist of the following: vacant land to the north; single-family residences to the south and east; and a gasoline station and mini-mart to the west.
13. The site plan for the shopping center depicts the Market as having approximately 4,000 square feet of shelf space. The applicant's plans show that he plans to utilize approximately 200 square feet of shelf space for the display of alcoholic beverages, which is five percent of the total shelf area, and which is the maximum amount allowed due to the location of other nearby facilities licensed to sell alcoholic beverages.
14. Statistical data from the California Department of Alcoholic Beverage Control ("ABC") indicates that the Subject Property is located within a high crime reporting district. The Subject Property is in Reporting District 2664. The average annual number of offenses reported for all districts is 150 and the actual number of crimes reported for District 2664 is 206.
15. The Palmdale Station of the Los Angeles County Sheriff's Department was consulted regarding the project. While the Market is located within a high-crime reporting district, the Sheriff had no opposition to the proposed CUP.

16. ABC data shows that the site is not in an area with an over-concentration of alcohol sales. The Market is in Census Tract 9100 containing a population of 11,063 people. Ten on-sale ABC licenses and seven off-sale ABC licenses are allowed within this census tract. Currently, one on-sale ABC license exists and seven off-sale licenses exist, including the Market.
17. The applicant is not requesting authorization to establish a new ABC license.
18. Prior to the hearings on the CUP, the County Department of Public Works ("Public Works") was consulted regarding the adequacy of the nearby road infrastructure. Public Works advised that a traffic signal is scheduled for installation at the intersection of East Avenue T and 87th Street which is anticipated to alleviate congestion currently experienced at this intersection.
19. The CUP application was originally heard by the Hearing Officer at a duly-noticed public hearing on April 15, 2008. During that hearing, the applicant testified in favor of the CUP. The owner of a liquor store also located at the Subject Property testified against the CUP, asserting, among other things, that it would harm his business. The Hearing Officer continued the hearing to allow the applicant time to present the proposal to the Littlerock Town Council.
20. At the continued public hearing on May 20, 2008, the applicant's representative again testified in favor of the CUP, reporting that he obtained a letter of support from the Littlerock Town Council. The Hearing Officer closed the public hearing and approved the CUP. The approval was subsequently appealed to the Commission by the representative of the neighboring liquor store and heard by the Commission.
21. Prior to the Commission hearing, public hearing notices regarding the CUP were mailed to property owners within the 1,000-foot radius of the Subject Property. Hearing notices were also published in the *Antelope Valley Press* and *La Opinion*. Case-related materials were sent to the Littlerock County Library, and the hearing notice was posted at the Subject Property, albeit untimely as referenced below. Regional Planning staff received three letters of opposition from area residents who cited an over-concentration of liquor licenses in the area and the possibility of competition with local businesses. The Littlerock Town Council ultimately indicated its support of the CUP.
22. The Commission opened its hearing of the appeal of the Hearing Officer's decision on September 10, 2008. However, due to untimely posting of the notice at the Subject Property, the Commission continued the public hearing until November 5, 2008, to allow for timely posting of notice. Timely notice was posted for the November 5, 2008 continued hearing.

23. At the Commission's continued public hearing, the appellant's representative testified in opposition to the CUP citing an early (and subsequently reversed) opposition by the Littlerock Town Council, alleged high crime, and over-concentration of liquor sales in the area. The applicant's representatives testified in favor of the project.
24. After hearing this testimony and following questions and discussion, the Commission unanimously denied the appeal of the Hearing Officer's approval of the CUP, thereby also approving the CUP. The Commission's decision was appealed to the Board by the same appellant who had appealed the Hearing Officer's decision.
25. Thereafter, the Board held a duly-noticed de novo public hearing on September 22, 2009, to consider the appeal of the Commission's approval. At the hearing, only representatives of the applicant testified. No testimony was received in opposition to the requested CUP.
26. Regional Planning staff determined that a Categorical Exemption is the appropriate environmental documentation for the project under the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.), and State and County Guidelines related thereto. The project is within a class of projects which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15301 of the State CEQA Guidelines and Class 1 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G. This permit will be issued to a market that is located in an existing facility with only a minor change in the use, allowing the sale of refrigerated beer and wine instead of only non-refrigerated alcohol.
27. The Market is located within an existing shopping center that includes a tavern and a liquor store, both of which are licensed by ABC to sell alcohol, and both of which are within 500 feet of the Market.
28. The proposed use requested by the applicant will serve a public convenience because it will allow the patrons of the Market to purchase refrigerated beer and wine with other groceries in the same store rather than traveling to another location. Pursuant to County Code section 22.56.195.B.3, said convenience outweighs the concentration of similar premises within the 500-foot radius. As required by the County Code, the attached conditions will restrict the applicant to utilizing no more than five percent of the Market's shelf space for the sale of alcoholic beverages.

**BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:**

- A. The proposed use is consistent with the adopted general plan for the area;



- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, and general welfare;
- C. The Subject Property is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping, and other development features;
- D. The Market and Subject Property are adequately served by highways of sufficient width, and improved as necessary, to carry the kind of traffic such uses would generate and by other public or private facilities as required;
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground, or any similar use within a 600-foot radius;
- F. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area;
- G. The requested use at the proposed location will not violate provisions regarding undue concentration of similar premises because there is a public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption, which outweighs the fact that it is located within a 500-foot radius of other facilities selling alcoholic beverages for either on-site or off-site consumption, and because its shelf space devoted to alcoholic beverages will be limited to not more than five percent of the total shelf space in the Market;
- H. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- I. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

**THEREFORE, THE BOARD OF SUPERVISORS:**

1. Finds that the project is categorically exempt under CEQA; and
2. Approves Project No. R2006-00384-(5), consisting of Conditional Use Permit No. 2006-00029-(5), subject to the attached conditions.

**CONDITIONS OF APPROVAL**  
**PROJECT NO. R2006-00384-(5)**  
**CONDITIONAL USE PERMIT NO. 2006-00029-(5)**

1. This grant authorizes the sale of refrigerated and non-refrigerated beer and wine for off-site consumption at an existing market, located at 8714 East Avenue T, in the Little Rock Zoned District, as depicted on the approved Exhibit "A," subject to all of the following conditions of approval. The permittee previously was permitted by Conditional Use Permit ("CUP") No. 99-132-(5) to sell only non-refrigerated beer and wine. This grant supersedes that prior CUP.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 3 and Conditions Nos. 4, 5, and 6 shall be effective immediately upon final approval of this grant by the County of Los Angeles ("County").
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any applicable limitation period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing pay Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits from which actual costs shall be billed and deducted:
  - a. If during the litigation process actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and

- b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code ("County Code") section 2.170.010.

- 6. This grant will expire unless used within two years from the date of approval. A one-year time extension may be requested, in writing, with payment of the applicable fee, at least six months before the expiration date.
- 7. If any provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
- 8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Registrar-Recorder/County Clerk. In addition, upon any transfer or lease of the subject property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
- 9. This grant shall terminate on December 1, 2019. Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the sale of beer and wine after such date, a new CUP application shall be filed with Regional Planning at least six months prior to the expiration of this permit, whether or not any modification of the use is requested at that time. The expiration of this grant shall not apply to the continued use of the market without any beer or wine sales.
- 10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County the sum of \$1,500. These monies shall be placed in a performance fund which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. These funds provide for 10 annual inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions



of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be \$150 per inspection or the current recovery cost, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the County Regional Planning Commission ("Commission") or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the permittee shall compensate the County for all costs incurred in such proceedings.
12. All requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
13. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said department.
14. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works, the Forester and Fire Warden, the Department of Health Services, and the Department of Public Health.
15. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization. Within thirty (30) days of the approval of this grant, any illegal signage shall be removed from the subject property. Any new or additional signage shall be in compliance with Part 10 of Chapter 22.52 of the Zoning Ordinance.
16. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

17. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A." In the event that subsequent plans are submitted, the written authorization of the property owner is necessary.
18. This grant allows for the sale of refrigerated and non-refrigerated beer and wine for off-site consumption at the existing market located at 8714 East Avenue T in the Littlerock Zoned District, subject to the following conditions:
  - a. The sale of beer and wine for off-site consumption shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m. daily;
  - b. No beer or wine shall be displayed within five feet of the cash register or the front door;
  - c. No sale of alcoholic beverages shall be made from a drive-thru window;
  - d. No display or sale of beer or wine shall be made from an ice tub;
  - e. No self-illuminating advertising for beer or wine shall be located on buildings or windows;
  - f. Telephone numbers of local law enforcement shall be posted adjacent to the cashier's area;
  - g. The shelf space devoted to alcoholic beverage sales shall not exceed five percent of the total shelf space within the subject market (200 square feet of 4,000 square feet);
  - h. The permittee shall not advertise alcoholic beverages on the exterior walls or windows of the subject market or at any location on the subject property;
  - i. Signage shall be posted within the beer/wine section of the market notifying patrons in both English and the predominant second language of the neighborhood that it is a violation of the California State Vehicle Code to transport open containers of alcoholic beverages within the passenger compartment of a motor vehicle;
  - j. The permittee shall not sell beer in containers of less than one quart or in less than six-pack quantities;
  - k. The permittee shall not sell wine, with the exception of wine coolers, in containers of less than 750 milliliters. No miniatures of any type may be sold. Wine coolers shall not be sold in less than four-pack quantities;
  - l. There shall be no alcoholic beverages consumed in open areas adjacent to the subject market under control of the permittee;

- m. There shall be no loitering permitted on the premises under the control of the permittee. Signage shall be posted on the premises prohibiting loitering. The signage shall be in English and the predominant second language of the area;
- n. The permittee shall post signage in the market prohibiting the consumption of alcoholic beverages on site. The signage shall be in English and the predominant second language of the area;
- o. The permittee shall provide adequate lighting above the entrance of the premises. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises;
- p. The permittee shall instruct all employees on the regulations prohibiting loitering and consumption of beer and wine on site. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
- q. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control;
- r. The permittee shall not install or maintain video games on site;
- s. The licensed premises shall have no coin-operated amusements at any time, other than official State Lottery machines;
- t. No ice in quantities of less than two pounds shall be sold, furnished, or given away;
- u. Public telephones located in front of the premises shall be for outgoing calls only; and
- v. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff's deputy, zoning enforcement inspector, or ABC investigator. The market manager and all employees of the market shall be knowledgeable of the conditions herein.